

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK



JOSEPH GIRARD, Individually and as Administrator  
of the Estate of MICHAEL GIRARD, Deceased,

*Plaintiff,*

vs.

TIMOTHY B. HOWARD, as Erie County Sheriff,  
COUNTY OF ERIE, ERIE COUNTY SHERIFF'S  
DEPARTMENT, ERIE COUNTY SHERIFF'S  
OFFICE, and JOHN DOES, Erie County Sheriff's  
Deputies,

*Defendants.*

**NOTICE OF REMOVAL**

NYS Index No. 805863/2019

Civil Action No.

19 CV 673S

TO: THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE WESTERN  
DISTRICT OF NEW YORK:

**PLEASE TAKE NOTICE** that, pursuant to 28 U.S.C. §§ 1441(b) and 1446, defendants  
TIMOTHY B. HOWARD, as Erie County Sheriff, COUNTY OF ERIE, ERIE COUNTY  
SHERIFF'S DEPARTMENT, ERIE COUNTY SHERIFF'S OFFICE, and JOHN DOES, Erie  
County Sheriff's Deputies, hereby remove to this Court the civil action filed in the Supreme  
Court of the State of New York, County of Erie, as described below.

On May 13, 2019, plaintiff JOSEPH GIRARD, Individually and as Administrator of the  
Estate of MICHAEL GIRARD, Deceased, filed a civil action entitled against TIMOTHY B.  
HOWARD, as Erie County Sheriff, COUNTY OF ERIE, ERIE COUNTY SHERIFF'S  
DEPARTMENT, ERIE COUNTY SHERIFF'S OFFICE, and JOHN DOES, Erie County  
Sheriff's Deputies, Case Index Number: 805863/2019, in the Supreme Court for the State of  
New York, County of Erie.

On May 21, 2019, plaintiff served the Summons and Complaint in the above-referenced state court action upon defendants. A copy of the Summons and Complaint in the state court action are attached hereto as **Exhibit A**. Copies of the Affidavits of Service are attached as **Exhibit B**.

No further proceedings have been had in the state court action. Plaintiff's Complaint contains a cause of action pursuant to 42 U.S.C. §1983, alleging that the County defendants violated plaintiff's Fifth, Eighth, and/or Fourteenth Amendment rights.

Accordingly, this Court has original jurisdiction over the state court action under 28 U.S.C. §1331 (federal question) because it is a civil action that arises under the Constitution, laws, or treaties of the United States.

No previous application has been made for the relief requested herein.

Dated: Buffalo, New York  
May 23, 2019

Respectfully submitted,

**MICHAEL A. SIRAGUSA**  
*Erie County Attorney*

s/ Erin E. Molisani  
Erin E. Molisani  
Assistant County Attorney  
95 Franklin Street, Room 1634  
Buffalo, New York 14202  
Telephone: (716) 858-2216  
Email: Erin.Molisani@erie.gov

To: Alison K. Haseley, Esq.  
**COLLINS & COLLINS ATTORNEYS, LLC**  
*Attorneys for plaintiff*  
267 North Street  
Buffalo, New York 14201  
Telephone: (716) 885-9700  
Email: ahaseley@collinscollins.com

**Index of Documents  
filed in State Court prior to removal**

<u>Document</u>	<u>Date of Filing</u>
A. Summons and Complaint	May 13, 2019
B. Affidavits of Service	May 21, 2019

**CERTIFICATE OF SERVICE**

I hereby certify that on May 23, 2019, I mailed the foregoing Notice of Removal, by the United States Postal Service, to the following individuals:

Alison K. Haseley, Esq.

**COLLINS & COLLINS ATTORNEYS, LLC**

*Attorneys for plaintiff*

267 North Street

Buffalo, New York 14201

Telephone: (716) 885-9700

Email: ahaseley@collinscollins.com

Dated: Buffalo, New York  
May 23, 2019

**MICHAEL A. SIRAGUSA**

*Erie County Attorney*

s/ Erin E. Molisani

Erin E. Molisani

Assistant County Attorney

95 Franklin Street, Room 1634

Buffalo, New York 14202

Telephone: (716) 858-2216

Email: Erin.Molisani@erie.gov

Exhibit A

**FILED: ERIE COUNTY CLERK 05/13/2019 02:42 PM**

INDEX NO. 805863/2019

NYSCEF DOC. NO. 1

RECEIVED NYSCEF: 05/13/2019

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF ERIE

**JOSEPH GIRARD, Individually, and as  
Administrator of the Estate of MICHAEL  
GIRARD, Deceased,**  
407 Wabash Avenue  
Buffalo, New York 14217,

**SUMMONS**

Index No:

Plaintiff,

v.

**TIMOTHY B. HOWARD, as  
ERIE COUNTY SHERIFF**  
10 Delaware Avenue  
Buffalo, New York 14202

**COUNTY OF ERIE**  
95 Franklin Street  
Buffalo, New York 14202

**ERIE COUNTY SHERIFF'S DEPARTMENT**  
10 Delaware Avenue  
Buffalo, New York 14202

**ERIE COUNTY SHERIFF'S OFFICE**  
10 Delaware Avenue  
Buffalo, New York 14202

**JOHN DOES, Erie County Sheriff's Deputies**  
10 Delaware Avenue  
Buffalo, New York 14202,

Defendants.

**TO THE ABOVE-NAMED DEFENDANTS:**

**YOU ARE HEREBY SUMMONED AND REQUIRED** to serve upon Plaintiff's attorneys,  
at the address stated below, a written Answer to the attached Complaint.

If this Summons is served upon you within the State of New York by personal service, you must respond within twenty (20) days after service, not counting the day of service. If this Summons is not personally delivered to you within the State of New York, you must respond within thirty (30) days after service is completed, as provided by law.

**Collins & Collins**  
ATTORNEYS, LLC

a. 267 North Street, Buffalo, New York 14201 ☎ a. 716 885 9700

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If you do not respond to the attached Complaint within the applicable time limitation stated above, a Judgment will be entered against you by default for the relief demanded in the Complaint without further notice to you.

This action is brought within the County of Erie and the State of New York because the residence of the Plaintiff in Erie County.

DATED: May 13, 2019  
Buffalo, New York

  
ALISON K. HASELEY, ESQ.  
COLLINS & COLLINS ATTORNEYS, LLC  
Attorneys for Plaintiff  
267 North Street  
Buffalo, New York 14201  
(716) 885-9700

**Collins & Collins**  
ATTORNEYS, LLC

a 267 North Street, Buffalo, New York 14201 p. 716 885 9700

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SUPREME COURT  
STATE OF NEW YORK : COUNTY OF ERIE

JOSEPH GIRARD, Individually, and as  
Administrator of the Estate of  
MICHAEL GIRARD, deceased

*Plaintiff,*

**COMPLAINT**

vs.

Index No.

TIMOTHY B. HOWARD, as  
ERIE COUNTY SHERIFF, COUNTY OF ERIE, ERIE  
COUNTY SHERIFF'S DEPARTMENT, ERIE COUNTY  
SHERIFF'S OFFICE, JOHN DOES, Erie County  
Sheriff's Deputies

*Defendants.*

Plaintiff, JOSEPH GIRARD, as Administrator of the Estate of MICHAEL GIRARD, deceased, by his attorneys, Collins & Collins Attorneys, LLC, as and for his Complaint against the defendants, TIMOTHY B. HOWARD as ERIE COUNTY SHERIFF, COUNTY OF ERIE, ERIE COUNTY SHERIFF'S DEPARTMENT, ERIE COUNTY SHERIFF'S OFFICE, and JOHN DOES being Erie County Sheriff's Deputies, alleges as follows:

1. The Plaintiff, JOSEPH GIRARD was and is a resident of the County of Erie and the State of New York.
2. The Plaintiff, JOSEPH GIRARD is the natural father of the decedent, MICHAEL GIRARD.
3. Prior to his death, Plaintiff's decedent, MICHAEL GIRARD, was a resident of the County of Erie, State of New York.

**Collins & Collins**  
ATTORNEYS, LLC

a 267 North Street, Buffalo, New York 14201 t 716 885-9700

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4. On October 3, 2018, the Surrogate's Court of Erie County granted letters of administration to JOSEPH GIRARD for the Estate of MICHAEL GIRARD.

5. Upon information and belief, at all times herein, the defendant, COUNTY OF ERIE, was and is a municipal corporation duly organized under and pursuant to the laws of the State of New York.

6. Upon information and belief, at all times herein, the defendant, ERIE COUNTY SHERIFF'S DEPARTMENT and/or ERIE COUNTY SHERIFF'S OFFICE, was and is an administrative branch of the COUNTY OF ERIE.

7. At all times herein, TIMOTHY B. HOWARD, was and is the Sheriff of the County of Erie.

8. At all times herein, JOHN DOES being Erie County Sheriff's Deputies whose identities are as yet unknown, were employees of the defendants ERIE COUNTY SHERIFF TIMOTHY B. HOWARD and/or COUNTY OF ERIE and/or ERIE COUNTY SHERIFF'S DEPARTMENT and/or ERIE COUNTY SHERIFF'S OFFICE.

9. Upon information and belief, at all times herein, defendants, ERIE COUNTY SHERIFF TIMOTHY B. HOWARD and/or COUNTY OF ERIE and/or ERIE COUNTY SHERIFF'S DEPARTMENT and/or ERIE COUNTY SHERIFF'S OFFICE owned, provided, maintained, operated, managed and/or controlled the Erie County Holding Center.

10. Upon information and belief, at all times herein, defendants, ERIE COUNTY SHERIFF TIMOTHY B. HOWARD and/or COUNTY OF ERIE and/or ERIE COUNTY SHERIFF'S DEPARTMENT and/or ERIE COUNTY SHERIFF'S OFFICE were responsible for the appointment, training and supervision of Sheriff's Deputies, corrections officers, and other staff assigned to the Erie County Holding Center.

**Collins & Collins**  
ATTORNEYS, LLC

267 North Street, Buffalo, New York 14201 ☎ 716.885.9700

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11. Upon information and belief, at all times herein, defendants, ERIE COUNTY SHERIFF TIMOTHY B. HOWARD and/or COUNTY OF ERIE and/or ERIE COUNTY SHERIFF'S DEPARTMENT and/or ERIE COUNTY SHERIFF'S OFFICE were responsible for the care, custody, and control of the inmates of the Erie County Holding Center, and owed a duty to receive and safely keep prisoners in jails over which they had custody.

12. The claim arises out of an incident that occurred on or about May 25, 2018 at the Erie County Holding Center located at 121 West Eagle Street, Buffalo, New York.

13. On or about the 16<sup>th</sup> day of August 2018, Notices of Claim were served on behalf of the plaintiff upon the ERIE COUNTY SHERIFF TIMOTHY B. HOWARD, COUNTY OF ERIE and ERIE COUNTY SHERIFF'S OFFICE. At least thirty (30) days have elapsed since the service of the Notices of Claim as aforesaid, and the defendants have failed and neglected to adjust or pay the said claims.

**AS AND FOR A FIRST CAUSE OF ACTION AGAINST  
DEFENDANTS, PLAINTIFF ALLEGES:**

14. Upon information and belief, the decedent, MICHAEL GIRARD was an inmate or prisoner at the Erie County Holding Center from approximately May 21, 2018 through May 25, 2018.

15. On May 25, 2018 at or before approximately 1:00 a.m., while under the care, custody, control and supervision of the defendants, ERIE COUNTY SHERIFF TIMOTHY B. HOWARD and/or COUNTY OF ERIE and/or ERIE COUNTY SHERIFF'S OFFICE and/or ERIE COUNTY SHERIFF'S DEPARTMENT, the decedent, MICHAEL GIRARD committed suicide by hanging himself.

16. Upon information and belief, the incident herein described, and the resultant injuries and damages sustained were caused by the negligence, carelessness, recklessness, and/or

**Collins & Collins**  
ATTORNEYS, LLC

267 North Street, Buffalo, New York 14201 U.S.A. 716.833.9700

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unlawful conduct on the part of each of the defendants, and/or their agents, servants, or employees, and more particularly in failing to receive and safely keep plaintiff's decedent; failing to properly supervise and monitor plaintiff's decedent while he was incarcerated; in failing to properly train and/or supervise deputies and other employees; in negligent hiring, training and retention of deputies and other employees; in failing to take steps to prevent decedent from harming himself; in failing to screen the decedent for health and/or mental health problems while he was incarcerated; in failing to enact adequate policies, procedures, customs and/or guidelines to prevent the death of inmates; in failing to enact adequate policies, procedures, customs and/or guidelines to assess, evaluate, supervise, monitor, and/or treat inmates with medical and/or mental health issues; in failing to modify the decedent's person and quarters to prevent suicide; in failing to identify the decedent's suicide risk while he was incarcerated; in failing to place the decedent on suicide watch while he was incarcerated; in failing to place decedent in a detoxification unit while he was incarcerated; in failing to protect plaintiff's decedent from a reasonably foreseeable injury, including suicide; in failing to comply with New York State and Federal regulations and/or prior Stipulated Settlement Agreement; and, in failing to comply with generally recognized industry standards.

17. As a result of the aforesaid, plaintiff's decedent sustained conscious pain and suffering prior to his death, mental and emotional suffering and anguish prior to his death, fear of impending death, death, and his distributees have sustained pecuniary loss. In addition, Defendants' conduct warrants punitive damages.

**AS AND FOR A SECOND CAUSE OF ACTION AGAINST  
DEFENDANTS, PLAINTIFF ALLEGES:**

18. Plaintiff repeats and realleges the claims set forth in paragraphs "1" through "17" above as is more fully set forth herein.

**Collins & Collins**  
ATTORNEYS, LLC

c. 267 North Street, Buffalo, New York 14201 ☐ p. 716.885.9200

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19. Each and all of the aforesaid acts or omissions stated above with respect to defendants ERIE COUNTY SHERIFF TIMOTHY B. HOWARD, COUNTY OF ERIE, ERIE COUNTY SHERIFF'S OFFICE and/or ERIE COUNTY SHERIFF'S DEPARTMENT, and JOHN DOES, Erie County Sheriff's Deputies, and all agents, employees and deputies involved with the processing, admitting, receiving, keeping, supervising, evaluating, and/or monitoring of plaintiff's decedent were performed under the color and the pretense of the statutes, ordinances, regulations, customs and uses of the State of New York, County of Erie, and Erie County Sheriff's Department and/or Erie County Sheriff's Office.

20. The foregoing conduct of each of the defendants and/or their agents, servants, and employees, acting under the color of law, deprived plaintiff's decedent of rights, privileges and/or immunities granted to him by the Fifth, Eighth, and/or Fourteenth Amendments of the Constitution of the United States, all in violation of 42 U.S.C. § 1983 and 1988 as well as the Constitution of the State of New York, New York State Penal Law, New York State Corrections Law, and the New York State common law.

21. Based on the foregoing, plaintiff is entitled to judgment against the defendants in an amount that exceeds the jurisdictional limits of all lower courts, punitive damages, and an award of counsel fees pursuant to 42 U.S.C. § 1988.

22. One or more of the exceptions under CPLR Article 16 apply to this action.

**WHEREFORE**, the Plaintiff, JOSEPH GIRARD, individually and as Administrator of the Estate of MICHAEL GIRARD, demands judgment, jointly and severally, against defendants, ERIE COUNTY SHERIFF TIMOTHY B. HOWARD, COUNTY OF ERIE, ERIE COUNTY SHERIFF'S OFFICE, ERIE COUNTY SHERIFF'S DEPARTMENT, and JOHN DOES, Erie County Sheriff's Deputies, for conscious pain and suffering and wrongful death damages and

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punitive damages in an amount that exceeds the jurisdictional limits of all lower courts and in an amount to be determined by a jury, plus the costs and disbursements of this action.

DATED: May 13, 2019  
Buffalo, New York

  
ALISON K. HASELEY, ESQ.  
COLLINS & COLLINS ATTORNEYS, LLC  
Attorneys for Plaintiff  
267 North Street  
Buffalo, New York 14201  
(716) 885-9700

**Collins & Collins**  
ATTORNEYS, LLC

a 267 North Street, Buffalo, New York 14201 T 716 885 9700

Exhibit B

COUNTY OF ERIE

**Plaintiff / Petitioner:**JOSEPH GIRARD, Individually and as Administrator of the Estate  
of MICHAEL GIRARD, Deceased**Defendant / Respondent:**

COUNTY OF ERIE, et al

**AFFIDAVIT OF SERVICE**

Index No:

805863/2019

The undersigned being duly sworn, deposes and says; deponent is not a party herein, is over 18 years of age and resides at PO Box 1932, Buffalo, NY 14226. That on MAY 16, 2019 AT 1:50PM AT 10 DELAWARE AVE, BUFFALO, NY 14202 deponent served the within SUMMONS, COMPLAINT on ERIE COUNTY SHERIFF'S DEPARTMENT

- ☐ **Individual:** by delivering a true copy of each to said defendant, personally; deponent knew the person so served to be the person described as said defendant therein.
- ☐ **Corporation:** \_\_\_\_\_ a defendant, therein named, by delivering a true copy of each to \_\_\_\_\_ personally, deponent knew said corporation so served to be the corporation described, and knew said individual to be \_\_\_\_\_ thereof.
- ☒ **Suitable Person:** by delivering thereat, a true copy of each to MICKEY PAWENSKI - SECRETARY TO TIMOTHY B. HOWARD SHERIFF a person of suitable age and discretion.
- ☐ **Affixing to Door:** by affixing a true copy of each to the door thereof, deponent was unable with due diligence to find defendant, or a person of suitable age or discretion thereat, having called thereon; at \_\_\_\_\_
- ☐ **Mailing:** Deponent also enclosed a copy of same, in a postpaid sealed wrapper properly addressed to said defendant at defendant's last known residence, \_\_\_\_\_, and depositing said wrapper in a post office, official depository under the exclusive care and custody of the United States Post Office, department, with New York State. Mailed on \_\_\_\_\_.
- ☐ **Military Service:** I asked the person spoken to whether defendant was in active military service of the United States or of the State of New York in any capacity whatever and received a negative reply. *Defendant wore ordinary civilian clothes and no military uniform.* The source of my information and the ground of my belief are the conversations and observations above narrated. Upon information and belief I aver that the defendant is not in the military service of New York State or of the United States as that term is defined in either the State or in the Federal statutes.

**Description:**

Age: 55-60 Ethnicity: CAUCASIAN Gender: FEMALE Weight: 125  
Height: 5'6 Hair: LIGHT BROWN Eyes: LIGHT Relationship: SECRETARY TO  
SHERIFF

Other MICHEKEY PAWENSKI STATED SHE WAS AUTHORIZED TO ACCEPT SERVICE OF PROCESS ON BEHALF OF ERIE COUNTY SHERIFF'S DEPARTMENT

Sworn to before me on

May 20, 2019

Mick 5-20-19

Michael Hadden - Process Server

Notary Public

Betty Y. Lantz

BETTY Y. LANTZ  
Notary Public, State of New York  
Qualified in Erie County  
Reg. No. 01LA6292638  
My Commission Expires 11-04-20 21

**Plaintiff / Petitioner:**JOSEPH GIRARD, Individually and as Administrator of the Estate  
of MICHAEL GIRARD, Deceased**Defendant / Respondent:**

COUNTY OF ERIE, et al

**AFFIDAVIT OF SERVICE**

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- ☐ Individual: by delivering a true copy of each to said defendant, personally; deponent knew the person so served to be the person described as said defendant therein.
- ☐ Corporation: \_\_\_\_\_ a defendant, therein named, by delivering a true copy of each to \_\_\_\_\_ personally, deponent knew said corporation so served to be the corporation described, and knew said individual to be \_\_\_\_\_ thereof.
- ☒ Suitable Person: by delivering thereat, a true copy of each to MICKEY PAWENSKI - SECRETARY TO TIMOTHY B. HOWARD SHERIFF a person of suitable age and discretion.
- ☐ Affixing to Door: by affixing a true copy of each to the door thereof, deponent was unable with due diligence to find defendant, or a person of suitable age or discretion thereat, having called thereon; at \_\_\_\_\_
- ☐ Mailing: Deponent also enclosed a copy of same, in a postpaid sealed wrapper properly addressed to said defendant at defendant's last known residence, \_\_\_\_\_, and depositing said wrapper in a post office, official depository under the exclusive care and custody of the United States Post Office, department, with New York State. Mailed on \_\_\_\_\_.
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**Description:**

Age: 55-60 Ethnicity: CAUCASIAN Gender: FEMALE Weight: 125  
 Height: 5'6 Hair: LIGHT BROWN Eyes: LIGHT Relationship: SECRETARY TO SHERIFF

Other: MICHEKEY PAWENSKI STATED SHE WAS AUTHORIZED TO ACCEPT SERVICE OF PROCESS ON BEHALF OF ERIE COUNTY SHERIFF'S OFFICE

Michael Hadden 5-20-19  
 Michael Hadden - Process Server

Sworn to before me on

May 20, 2019  
Betty Y. Lantz  
 Notary Public

**BETTY Y. LANTZ**  
 Notary Public, State of New York  
 Qualified in Erie County  
 Reg. No. 01LA6292638  
 My Commission Expires 11-04-20 21

ERIE COUNTY SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF ERIE

**Plaintiff / Petitioner:**JOSEPH GIRARD, Individually and as Administrator of the Estate  
of MICHAEL GIRARD, Deceased**Defendant / Respondent:**

COUNTY OF ERIE, et al

**AFFIDAVIT OF SERVICE**Index No:  
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- ☐ **Individual:** by delivering a true copy of each to said defendant, personally; deponent knew the person so served to be the person described as said defendant therein.
- ☐ **Corporation:** \_\_\_\_\_ a defendant, therein named, by delivering a true copy of each to \_\_\_\_\_ personally, deponent knew said corporation so served to be the corporation described, and knew said individual to be \_\_\_\_\_ thereof.
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- ☐ **Military Service:** I asked the person spoken to whether defendant was in active military service of the United States or of the State of New York in any capacity whatever and received a negative reply. *Defendant wore ordinary civilian clothes and no military uniform.* The source of my information and the ground of my belief are the conversations and observations above narrated. Upon information and belief I aver that the defendant is not in the military service of New York State or of the United States as that term is defined in either the State or in the Federal statutes.

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 Height: 5'6 Hair: LIGHT BROWN Eyes: LIGHT Relationship: SECRETARY TO SHERIFF  
 Other MICHEKEY PAWENSKI STATED SHE WAS AUTHORIZED TO ACCEPT SERVICE OF PROCESS ON BEHALF OF TIMOTHY B HOWARD, ERIE COUNTY SHERIFF

Sworn to before me on

May 20, 2019

Michael Hadden 5-20-19

Michael Hadden - Process Server

Notary Public

Betty Y. Lantz

BETTY Y. LANTZ  
 Notary Public, State of New York  
 Qualified in Erie County  
 Reg. No. 01LA6292638  
 My Commission Expires 11-04-20

ERIE COUNTY SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF ERIE

**Plaintiff / Petitioner:**JOSEPH GIRARD, Individually and as Administrator of the Estate  
of MICHAEL GIRARD, Deceased**Defendant / Respondent:**

COUNTY OF ERIE, et al

**AFFIDAVIT OF SERVICE**Index No:  
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- ☐ **Individual:** by delivering a true copy of each to said defendant, personally; deponent knew the person so served to be the person described as said defendant therein.
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- ☒ **Suitable Person:** by delivering thereat, a true copy of each to MICKEY PAWENSKI - SECRETARY TO TIMOTHY B. HOWARD SHERIFF a person of suitable age and discretion.
- ☐ **Affixing to Door:** by affixing a true copy of each to the door thereof, deponent was unable with due diligence to find defendant, or a person of suitable age or discretion thereat, having called thereon; at \_\_\_\_\_
- ☐ **Mailing:** Deponent also enclosed a copy of same, in a postpaid sealed wrapper properly addressed to said defendant at defendant's last known residence, \_\_\_\_\_, and depositing said wrapper in a post office, official depository under the exclusive care and custody of the United States Post Office, department, with New York State. Mailed on \_\_\_\_\_
- ☐ **Military Service:** I asked the person spoken to whether defendant was in active military service of the United States or of the State of New York in any capacity whatever and received a negative reply. *Defendant wore ordinary civilian clothes and no military uniform.* The source of my information and the ground of my belief are the conversations and observations above narrated. Upon information and belief I aver that the defendant is not in the military service of New York State or of the United States as that term is defined in either the State or in the Federal statutes.

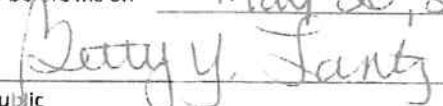
**Description:**

Age: 55-60 Ethnicity: CAUCASIAN Gender: FEMALE Weight: 125  
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SHERIFF

Other MICHEKEY PAWENSKI STATED SHE WAS AUTHORIZED TO ACCEPT SERVICE OF PROCESS ON BEHALF OF ERIE COUNTY SHERIFF'S Deputies as John Does

 5-20-19  
Michael Hadden - Process Server

Sworn to before me on

May 20, 2019  
  
Notary Public

BETTY Y. LANTZ  
Notary Public, State of New York  
Qualified in Erie County  
Reg. No. 01LA6292638  
My Commission Expires 11-04-20 21

ERIE COUNTY SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF ERIE

**Plaintiff / Petitioner:**JOSEPH GIRARD, Individually and as Administrator of the Estate  
of MICHAEL GIRARD, Deceased**Defendant / Respondent:**

COUNTY OF ERIE, et al

**AFFIDAVIT OF SERVICE**Index No:  
805863/2019

The undersigned being duly sworn, deposes and says; deponent is not a party herein, is over 18 years of age and resides at PO Box 1932, Buffalo, NY 14226. That on MAY 16, 2019 AT 1:30PM AT 95 FRANKLIN STREET, ROOM 1634, BUFFALO, NY 14202 deponent served the within SUMMONS, COMPLAINT on COUNTY OF ERIE

- ☐ **Individual:** by delivering a true copy of each to said defendant, personally; deponent knew the person so served to be the person described as said defendant therein.
- ☐ **Corporation:** \_\_\_\_\_ a defendant, therein named, by delivering a true copy of each to \_\_\_\_\_ personally, deponent knew said corporation so served to be the corporation described, and knew said individual to be \_\_\_\_\_ thereof.
- ☒ **Suitable Person:** by delivering thereat, a true copy of each to KENNETH R KIRBY - ASSISTANT COUNTY ATTORNEY a person of suitable age and discretion.
- ☐ **Affixing to Door:** by affixing a true copy of each to the door thereof, deponent was unable with due diligence to find defendant, or a person of suitable age or discretion thereat, having called thereon; at \_\_\_\_\_
- ☐ **Mailing:** Deponent also enclosed a copy of same, in a postpaid sealed wrapper properly addressed to said defendant at defendant's last known residence, \_\_\_\_\_, and depositing said wrapper in a post office, official depository under the exclusive care and custody of the United States Post Office, department, with New York State. Mailed on \_\_\_\_\_.
- ☐ **Military Service:** I asked the person spoken to whether defendant was in active military service of the United States or of the State of New York in any capacity whatever and received a negative reply. *Defendant wore ordinary civilian clothes and no military uniform.* The source of my information and the ground of my belief are the conversations and observations above narrated. Upon information and belief I aver that the defendant is not in the military service of New York State or of the United States as that term is defined in either the State or in the Federal statutes.

**Description:**

Age: 50-55 Ethnicity: CAUCASIAN Gender: MALE Weight: 185  
 Height: 6'0 Hair: GRAY Eyes: LIGHT Relationship: ASST COUNTY ATTORNEY  
 Other: \_\_\_\_\_

MALE 5-20-19  
 Michael Hadden - Process Server

Sworn to before me on

Notary Public

May 20, 2019  
Betty Y. Lantz  
 BETTY Y. LANTZ  
 Notary Public, State of New York  
 Qualified in Erie County  
 Reg. No. 01LA6292638  
 My Commission Expires 11-04-20 21